

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Steven M. RUBEN

Appl. No.: 10/662,429

Filed: September 16, 2003

For: **Apoptosis Inducing Molecule I**

Confirmation No.: 2663

Art Unit: 1644

Examiner: HUYNH, PHUONG N.

Atty. Docket: 1488.1890003/EJH/SAC

**Declaration of Eric Closs
Ruben Exhibit #138**

10/16/03

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DECLARATION OF ERIC CLOSS
RUBEN EXHIBIT #138

Paper No. _____

Filed on Behalf of Party Ruben

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UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**
(Administrative Patent Judge Sally Gardner Lane)

STEVEN M. RUBEN

Junior Party,
(Application No. 08/816,981),

v.

**STEVEN R. WILEY
and RAYMOND G. GOODWIN**

Senior Party,
(Patent No. 5,763,223).

Patent Interference No. 105,077

DECLARATION OF ERIC CLOSS

NYJD 1535102

Ruben EXHIBIT 2138
Ruben v. Wiley et al.
Interference No. 105,077
RX 2138

Interference No. 105,077
Ruben v. Wiley *et al.*

DECLARATION OF ERIC CLOSS

I, Eric Closs, declare and state as follows:

1. I was employed by MicroAge, Inc. ("MicroAge") throughout the year 1999 in the position of Account Executive. MicroAge was in the business of, *inter alia*, making copies of magnetic tapes for clients.

2. At least during the year 1999, it was MicroAge's normal business practice to make a copy of a client's magnetic tape in such a manner that the information on the copy was identical to that on the original magnetic tape provided by the client. Moreover, neither the information present on the original magnetic tape nor the information on the copied magnetic tape was altered during the time that such tapes were in the possession of MicroAge.

3. I have reviewed four letters that I wrote to Mr. James Grinnell of Human Genome Sciences Inc. RE134-137. Based upon that review, I conclude that during the year 1999, MicroAge Inc. received magnetic tapes dated April 29, 1994, and April 28, 1995, from First Federal Corporation ("First Federal") and made copies of those tapes pursuant to instructions from Mr. James Grinnell. Based upon MicroAge's standard business practices in place at that time, the copied tapes would have been identical to the tapes received from First Federal. Moreover, the information present on the magnetic tapes from First Federal, as well as that on the copies made by MicroAge, would not have been altered or modified in any way while those tapes were in the possession of MicroAge.

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Interference No. 105,077
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4 I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above-captioned application or any patent issuing thereon.

Date

7/15/2004
Eric Closs